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***UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
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UNITED STATES OF AMERICA,

Plaintiff,

vs.

IDRISS QIBAA,

Defendant.

Case No.: 2:24-cr-0175-RFB-MDC

GOVERNMENT SENTENCING
MEMORANDUM

Defendant Qibaa is before the Court for sentencing following pleas of guilty to all six counts of a six-count superseding information which were entered pursuant a written plea agreement.¹ Count One charges Extortion in violation of 18 U.S.C. § 1951(a), Counts Two and Three charge Money Laundering in violation of 18 U.S.C. § 1957, Count Four charges Stalking in violation of 18 U.S.C. §§ 2261A(2)(B) and (b)(5), and Counts Five and Six charge Interstate Communications Containing Threats in violation of 21 U.S.C. § 875(c).

In the plea agreement, the parties entered a stipulation regarding the calculation of defendant's offense level. Following several adjustments, the parties stipulated to a final

¹ ECF #40.

1 adjusted offense level of 22.² Probation determined the offense level to be a 25.³ The three
2 level difference results from Probation applying a three-level adjustment for the defendant
3 being involved in preparation to carry out a threat of serious bodily injury pursuant to
4 USSG 2B3.2(b)(3)(B)(i)(II) and (ii). As the parties through good faith negotiations did not
5 include that enhancement, the United States urges this Court to adopt the guideline
6 calculations stipulated to by the parties.

7 Probation determined, and there are no objections, that the defendant is a Criminal
8 History Category II⁴ which, when using the guideline range stipulated to by the parties,
9 results in an advisory guideline range of 46-57 months.

10 The terms of the plea agreement require the United States to recommend a sentence
11 within the guideline range determined by the Court at the time of sentencing while
12 permitting the defense to seek a downward variance pursuant to 18 U.S.C. § 3553.⁵

13 A. United States' Sentence Recommendation

14 The United States recommends that the Court sentence defendant to a period of
15 confinement at the high end of the guideline range. The defendant continues his pattern of
16 minimizing his actions, playing to and manipulating his audience by saying whatever he
17 thinks is necessary to attain his goals, and seeking to avoid the consequences of his actions.

18 1. Minimizing his Actions

19 The defendant spends a good part of his argument explaining why “actual loss and
20 intended loss are not good proxies for culpability or offense seriousness.”⁶ He further argues
21 that the guidelines “are based on generalizations that necessarily fail to capture the full
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23 ² *Id.* at 9.

³ ECF #47 at ¶71.

⁴ *Id.* at ¶120.

⁵ ECF #40 at 11 ¶17.

⁶ ECF #48 at 12:12-13

1 range of facts that might be relevant to evaluating harm and culpability in a given case.”⁷
2 The guidelines are a starting place, and in the case of extortion, driven by the amount of
3 loss. Guideline calculations, in and of themselves, were never intended to capture the full
4 range of facts in a given case. Only the facts of a case can provide the full picture of a
5 defendant’s harm and culpability. When fully reviewed, the facts of this case reveal
6 defendant’s true harms and culpability and are not kind to the defendant’s position that he
7 should receive a downward variance.

8 Defendant compares his conduct to that of a bank robber and concludes that his
9 sentence should be less because he inflicted force, violence, and fear electronically as
10 opposed to face to face. Defendant seems to argue that the method of inflicting force,
11 violence, and fear is the controlling factor at sentencing. Defendant does not, and with
12 good reason, discuss the degree, duration, and personal nature of the force, violence, and
13 fear his inflicted on his multiple victims.

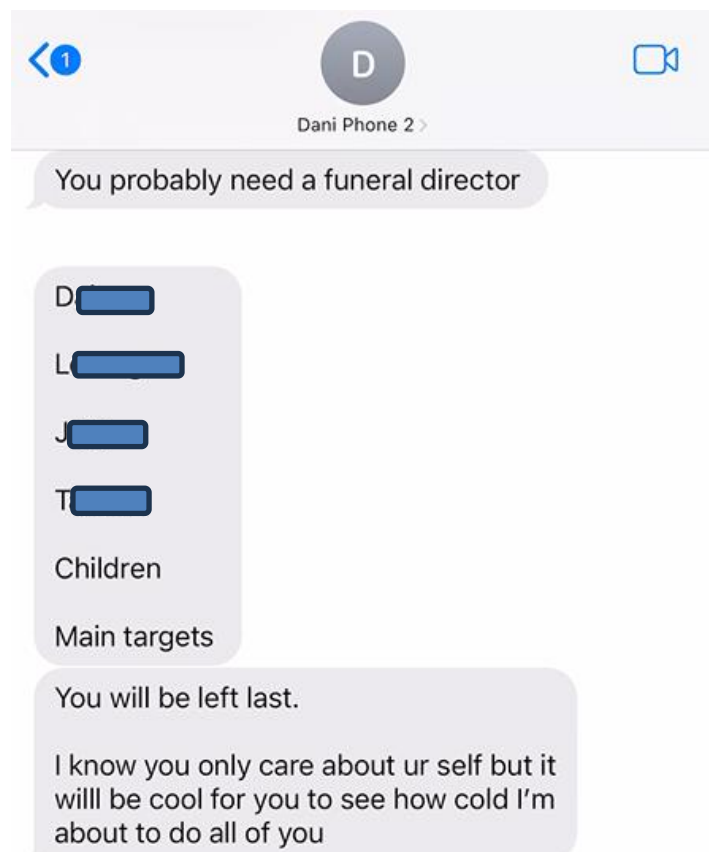
14 While a bank robber may instill fear on a teller for a few minutes using only a note
15 and take property not belonging to the teller, the defendant did so much more for so much
16 longer in a much more personal way. The Presentence Report does an excellent job of
17 laying out the various harms defendant inflicted on his multiple victims. In the case of
18 Counts One - Extortion, and Count Four – Stalking, the defendant threatened his victims,
19 and their families, with injury and death for months eventually receiving \$200,000.⁸
20 Defendant went beyond threats to do harm when he and his wife travelled from Nevada to
21 California to the victim’s home where the defendant vandalized the victim’s cars.
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⁷ *Id.* at 12:14-16.

⁸ ECF #47 ¶¶ 18-26.

1 Idriss Qibaa was a one-man wrecking crew. He was not a cog in a larger conspiracy
 2 or organization. He was not lured into his activities by a drug habit, the need to pay off
 3 gambling debts, or anything other than raw greed and an enjoyment of bullying people.

4 “Mr. Qibaa would tell himself he is doing it to known Instagram drug dealers, gun
 5 suppliers, and other purveyors of the criminal underworld.”⁹ Such disturbing
 6 rationalization does not account for the death threats repeatedly sent to his dentist and
 7 landlord.¹⁰ The defendant uses death threats and intimidation as a routine way of
 8 conducting business and personal matters. In one case, Qibaa threatened individually and
 9 by name, the lives of the children of one of his targets. A more personal and terrifying
 10 threat into the heart of a parent is difficult to imagine.



⁹ *Id.* at 4:18-20.

¹⁰ ECF # 47 ¶¶ 27-33.

1 The defendant resorted to this vile tactic over a billing dispute. The redacted portions are
2 the names of his victim's children.

3 2. Saying What Needs to be Said

4 At least six times in his Sentencing Memorandum, the defendant places at least some
5 of the blame for his actions on his "unmitigated bipolar . . . disorder," "untreated bipolar
6 disorder," or just "bipolar disorder."¹¹ When being sentenced, defendant finds it to his
7 benefit to claim the existence of a mental disorder to explain his actions. That was,
8 however, not always his claim nor the claim of his wife. When defendant was asking the
9 Court to release him pending trial, he portrayed himself quite differently advising Pretrial
10 Services "he has never been diagnosed with a mental illness or received any psychiatric
11 treatment. The defendant's fiancée verified the status of his mental health."¹²

12 When it suits his purposes, the defendant deceives his audience portraying himself as
13 something other than what he is. He has presented himself to this Court as having both no
14 psychiatric issues as well as having unmitigated bipolar disorder. The defendant says, and
15 continues to say, whatever he wants to manipulate his particular audience to get what he
16 wants. Idriss Qibaa has spent most of his adult life thriving on deception and manipulation.
17 He has zero credibility, and unless completely and independently corroborated, nothing he
18 claims should be taken at face value.

19 3. Avoiding Consequences

20 The defendant correctly states that "the government bears the burden of proving
21 restitution."¹³ He is incorrect in his assertion that because he "did not agree to any
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23 ¹¹ *Id.* at 1:21, 2:17, 3:6, 7:21, 7:24, and 8:4.

¹² This statement comes from the defendant's Pretrial Services Report to which all parties have access. Government counsel sought and received authority to disclose this information from Pretrial Services.

¹³ ECF #49 at 2:3.

1 restitution in the plea agreement. Restitution is inappropriate.”¹⁴ As Probation¹⁵ correctly
2 states, restitution in this case is statutorily mandated by the Mandatory Victims Restitution
3 Act.¹⁶ The defendant claims that his argument that restitution is not appropriate has
4 nothing to do with whether he is responsible for restitution, but whether the government is
5 able to meet the burden of demonstrating the amount of restitution. Count One of the
6 superseding information specifically alleges defendant extorted \$200,000.¹⁷ In the Factual
7 Basis section of the plea agreement Qibaa specifically admitted extorting \$200,000.¹⁸ The
8 Presentence Report, in unobjected to paragraphs, states that, pursuant to charged offenses,
9 the victim incurred a loss of \$274,500.¹⁹ Defendant’s argument that the government cannot
10 meet its burden in establishing the amount of restitution is without merit.

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22 ¹⁴*Id.* at 2:5-6.

23 ¹⁵ Probation is expressly not bound by the terms of the plea agreement. ECF #40 at 1:17-18.

¹⁶ 18 U.S.C. 3663A.

¹⁷ ECF #39.

¹⁸ ECF #40 at 7:15-17

¹⁹ ECF #47 at ¶37.

1 B. Conclusion

2 A review of the facts of this case and considering the defendant's actions in light of
3 the principles of 18 U.S.C. 3553, the Court should deny the defendant's request for a
4 downward variance and impose a sentence at the high end of the guideline range.

5 Respectfully submitted,

6 SIGAL CHATTAH
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8 ROBERT A. KNIEF
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